

AMENDMENTS TO THE CLAIMS:

A detailed listing of all claims that are, or were, in the application, and as amended herein, are presented below:

- 1 1. (Currently Amended): A writing instrument comprising:
2 a barrel having a channel, an open end, and a side surface;
3 an actuator located for on said side surface of said barrel; **and**
4 a writing element disposed in said channel and movable along a longitudinal
5 axis between a retracted position and an extended position;
6 a first engagement member associated with said writing element; and
7 a second engagement member associated with said channel;
8 wherein:
9 said writing element is operatively connected to said actuator;
10 at least a portion of said writing element is resilient;
11 said writing element is deflected in a direction substantially transverse to the
12 longitudinal axis upon being moved into said extended position; **and**
13 the resiliency of said writing element biases said writing element to engage
14 said channel and to retain said writing element in said extended position;
15 said first engagement member engages said second engagement member; and
16 said second engagement member is a ledge formed on said channel.
- 1 2. (Original): The writing instrument of claim 1, wherein said writing element is
2 bent such that the resiliency of said writing element biases said writing element to engage
3 said channel.
- 1 3. (Canceled).
- 1 4. (Currently Amended): The writing instrument of claim 3 1, wherein said first
2 engagement member is a pawl.
- 1 5. (Canceled).
- 1 6. (Canceled).
- 1 7. (Currently Amended): The writing instrument of claim 5, wherein A writing
2 instrument comprising:
3 a barrel having a channel, an open end, and a side surface;

an actuator located for on said side surface of said barrel; and
a writing element disposed in said channel and movable along a longitudinal
axis between a retracted position and an extended position;
a first engagement member comprising a pawl and associated with said
writing element; and
a second engagement member associated with said channel;
wherein:
said writing element is operatively connected to said actuator;
at least a portion of said writing element is resilient;
said writing element is deflected in a direction substantially transverse to the
longitudinal axis upon being moved into said extended position;
the resiliency of said writing element biases said writing element to engage
said channel and to retain said writing element in said extended position;
said first engagement member engages said second engagement member; and
said second engagement member is a ledge formed on said channel.

8. (Original): The writing instrument of claim 1, further comprising a sleeve member disposed in said channel for receiving a portion of said writing element, wherein said sleeve member engages said channel to retain said writing element in said extended position.

9. (Original): The writing instrument of claim 8, further comprising a first engagement member located on said sleeve member.

10. (Original): The writing instrument of claim 1, wherein said writing element is a living spring.

11. (Currently Amended): A writing instrument comprising:
a barrel having an open end, a closed end, and a channel extending between
said open end and said closed end; and
a writing element having a writing end, said writing element being disposed in
said channel and movable along a longitudinal axis between a retracted position with said
writing end within said channel and an extended position with said writing end extending
through and outside said open end;
a release member located on a side surface of said barrel and movable from a
rest position to a release position; and
a grip element formed on said barrel;

1 12. (Original): The writing element of claim 11, wherein movement of said
2 writing element in a direction substantially transverse to the longitudinal axis is caused by
3 bending said writing element.

1 13. (Original): The writing instrument of claim 11, wherein said writing element
2 is resilient.

1 14. (Canceled).

1 15. (Currently Amended): The writing instrument of claim 4 11, wherein
2 movement of said release member to said release position bends said writing element in a
3 direction substantially transverse to the longitudinal axis.

16. (Currently Amended): The writing instrument of claim 14 11, further comprising a first engagement member associated with said writing element, said first engagement member configured and dimensioned to engage said channel and to retain said writing element in said extended position.

1 17. (Original): The writing instrument of claim 16, wherein a portion of said
2 release member contacts said first engagement member.

1 18. (Original): The writing instrument of claim 16, wherein a portion of said
2 release member contacts said writing element at a location spaced apart from said release
3 member.

1 19. (Currently Amended): The writing instrument of claim ~~14~~ 11, wherein said
2 release member is a cantilever beam.

1 20. (Currently Amended): The writing instrument of claim 14 11, further
2 comprising a grip element covering at least a portion of said release member.

1 21. (Currently Amended): The writing instrument of claim ~~14~~ 11, wherein said
2 release member is pivotably coupled to said barrel.

1 22. (Canceled).

1 23. (Original): The writing instrument of claim 11, further comprising a sleeve
2 member disposed in said channel for receiving a portion of said writing element, wherein said
3 sleeve member resiliently engages said channel to retain said writing element in said
4 extended position.

1 24. (Original): The writing instrument of claim 23, further comprising a first
2 engagement member located on said sleeve member.

1 25. (Currently Amended): A writing instrument comprising:
2 a barrel having a substantially straight longitudinal channel and an open end
3 through which a writing element is extendable along a longitudinal axis; and
4 an actuator member disposed on a side surface of said barrel and movable
5 between a first position defining a first length between said actuator member and said open
6 end along the longitudinal axis, and a second position defining a second length between said
7 actuator member and said barrel open end along the longitudinal axis, said second length
8 being shorter than said first length;
9 wherein said actuator member moves along ~~a non-linear~~ an arcuate path
10 between said first position and said second position.

1 26. (Original): The writing instrument of claim 25, wherein said actuator member
2 pivots as it moves between said first position and said second position.

1 27. (Canceled).

1 28. (Original): The writing instrument of claim 25, wherein said actuator member
2 is disposed on a non-planar surface, and slides along said non-planar surface between said
3 first position and said second position.

1 29. (Currently Amended): The writing instrument of claim ~~25~~ 28, wherein said
2 non-planar surface is concave.

1 30. (Original): The writing instrument of claim 25, further comprising a writing
2 element disposed in said channel and moveable between a retracted position and an extended
3 position; wherein:

4 said writing element is in said retracted position when said actuator member is

5 in said first position; and

6 said writing element is in said extended position when said actuator member is
7 in said second position.

1 31. (Currently Amended): The writing instrument of claim 30, wherein said
2 writing element is pivotably coupled to said actuator element member.

1 32. (Original): The writing instrument of claim 25, further comprising a sleeve
2 member disposed in said channel for receiving a portion of a writing element, wherein said
3 sleeve member is pivotably coupled to said actuator member.

1 33. (Previously Presented): The writing instrument of claim 1, wherein said
2 writing element returns to a substantially straight configuration when in said extended
3 position.

1 34. (Previously Presented): The writing instrument of claim 1, further comprising
2 a release member located on a side surface of said barrel and movable from a rest position to
3 a release position;

4 wherein movement of said release member to said release position disengages said
5 writing element from said channel.

1 35. (Previously Presented): The writing instrument of claim 34, further
2 comprising a first engagement member associated with said writing element and configured
3 and dimensioned to engage said channel and to retain said writing element in said extended
4 position;

5 wherein a portion of said release member contacts said first engagement member.

1 36. (Previously Presented): The writing instrument of claim 34, wherein said
2 release member is a cantilever beam.

1 37. (Previously Presented): The writing instrument of claim 34, further
2 comprising a grip element covering at least a portion of said release member.

1 38. (Previously Presented): The writing instrument of claim 34, wherein said
2 release member is pivotably coupled to said barrel.

1 39. (Previously Presented): The writing instrument of claim 16, further
2 comprising a second engagement member associated with said channel, wherein said first
3 engagement member engages said second engagement member.

1 40. (New): A writing instrument comprising:
2 a barrel having a substantially straight longitudinal channel and an open end
3 through which a writing element is extendable along a longitudinal axis; and
4 an actuator member disposed on a side surface of said barrel and movable
5 between a first position defining a first length between said actuator member and said open
6 end along the longitudinal axis, and a second position defining a second length between said
7 actuator member and said barrel open end along the longitudinal axis, said second length
8 being shorter than said first length;

9 wherein said actuator member is disposed on a non-planar surface, and slides
10 along said non-planar surface between said first position and said second position.

1 41. (New): The writing instrument of claim 40, wherein said non-planar surface is
2 concave.

1 42. (New): A writing instrument comprising:
2 a barrel having a substantially straight longitudinal channel and an open end
3 through which a writing element is extendable along a longitudinal axis;
4 an actuator member disposed on a side surface of said barrel and movable
5 between a first position defining a first length between said actuator member and said open
6 end along the longitudinal axis, and a second position defining a second length between said
7 actuator member and said barrel open end along the longitudinal axis, said second length
8 being shorter than said first length; and

9 a writing element disposed in said channel and moveable between a retracted
10 position and an extended position

11 wherein:

12 said actuator member moves along a non-linear path between said first
13 position and said second position;

14 said writing element is pivotably coupled to said actuator member ;

15 said writing element is in said retracted position when said actuator member is
16 in said first position;

17 and said writing element is in said extended position when said actuator
18 member is in said second position.